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# Firearms: Frequently Asked Questions

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## Firearms: Frequently Asked Questions

There is considerable congressional interest in firearms and federal firearms policy. In the 118<sup>th</sup> Congress, for example, legislators proposed hundreds of bills with provisions affecting firearms policy. Given the number and diversity of firearms legislative proposals considered each Congress, some Members and congressional staff frequently have questions about types of firearms, federal firearms laws, and key firearms policy issues.

This report answers frequently asked questions regarding firearms and federal firearms policy and is intended to assist Members and staff who may be new to the policy issue. The report is divided into six sections:

- Firearms Types and Characteristics
- Federal Firearms Laws
- Federal Firearms Licensees (FFLs)
- Background Checks
- Straw Purchases and Firearms Trafficking
- Firearms-Related Appropriation Restrictions

This FAQ is intended as an introduction to firearms and federal firearms policy and does not provide in-depth coverage of all firearms-related issues. For more information on specific firearms policy issues, refer to the following CRS products:

- CRS In Focus IF11038, *U.S. Gun Policy: Framework and Major Issues*, by Michael A. Foster and Jordan B. Cohen
- CRS In Focus IF11371, *Firearms-Related Appropriations Riders*, by Mainon A. Schwartz
- CRS In Focus IF12057, *Statutory Federal Gun Registry Prohibitions and ATF Record Retention Requirements*, by Jordan B. Cohen
- CRS In Focus IF12190, *Gun Control: Straw Purchase and Gun Trafficking Provisions in P.L. 117-159*, by Jordan B. Cohen
- CRS In Focus IF12197, *Firearms Dealers Engaged in the Business*, by Jordan B. Cohen
- CRS In Focus IF12679, *The Biden Administration's New Restrictions on Firearms Sales*, by Jordan B. Cohen and Kristin Finklea
- CRS Testimony TE10109, *Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights*, by Jordan B. Cohen

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## Firearm Types and Characteristics

### What is a firearm?

The Gun Control Act of 1968 (GCA) defines a “firearm” to include any weapon that expels, or is readily capable of expelling, a projectile by means of an explosive; the frame or receiver of any such weapon; and any firearm muffler or firearm silencer. The GCA also classifies “destructive devices” as firearms.<sup>1</sup> Destructive devices include (1) any missiles with an explosive or incendiary charge weighing more than one-quarter ounce; (2) any weapon that expels a projectile by the action of an explosive or other propellant, with a bore diameter of more than one-half inch, except for shotguns recognized as suitable for sporting purposes; (3) any explosive, incendiary, or poison gas bombs, grenades, rockets, missiles, mines, and similar devices; and (4) Molotov cocktails (i.e., glass bottles filled with gasoline that ignite when broken).<sup>2</sup>

### What parts make up a firearm?

- **Frame or Receiver:** the primary structural component of a firearm, which provides housing for other internal components such as the hammer, bolt or breechblock, and firing mechanism.<sup>3</sup> Every firearm has a frame or receiver, which alone is considered a firearm under the GCA.<sup>4</sup> Some firearms, such as the AR-15, have receivers that are split into two parts (an upper and lower receiver). In such cases, ATF classifies the lower receiver as the firearm.<sup>5</sup>
- **Barrel:** the metal tube through which a projectile or shot charge is fired.
- **Bore:** the inside of a barrel. Bores can be rifled (i.e., the spiral grooves inside the barrel that give the bullet a spinning motion) or smoothbore (i.e., no rifling; predominantly used in shotguns).
- **Breech:** the rear opening of the chamber at the end of the barrel. It is attached to the action.
- **Bullet:** the projectile that is expelled from the firearm.
- **Cartridge:** a unit of ammunition, which is made up of a cartridge case, a projectile (otherwise known as a *bullet*), powder (the part of the cartridge that is used as a propellant charge), and a primer (an explosive substance that ignites when struck to detonate the powder).

<sup>1</sup> 18 U.S.C. §921(a).

<sup>2</sup> 18 U.S.C. §921(a).

<sup>3</sup> ATF, “Firearms – Guides – Importation & Verification of Firearms, Ammunition – Gun Control Act Definitions – Firearm,” <https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-ammunition-gun-control-act-definitions> (accessed December 17, 2024). The frame is the primary structural component of handguns. Specifically, 27 C.F.R. §478.12(a)(1) defines the “frame” as “the part of a handgun, or variants thereof, that provides housing or a structure for the primary energized component designed to hold back the hammer, striker, bolt, or similar component prior to initiation of the firing sequence (i.e., sear or equivalent), even if pins or other attachments are required to connect such component to the housing or structure.” 27 C.F.R. §478.12(a)(2) defines the “receiver” as “the part of a rifle, shotgun, or projectile weapon other than a handgun, or variants thereof, that provides housing or a structure for the primary component designed to block or seal the breech prior to initiation of the firing sequence (i.e., bolt, breechblock, or equivalent), even if pins or other attachments are required to connect such component to the housing or structure.”

<sup>4</sup> 18 U.S.C. §921(a).

<sup>5</sup> U.S. Department of Justice, “Factoring Criteria for Firearms With Attached ‘Stabilizing Braces’,” *27 Federal Register* 24739-24740, April 26, 2022.

- **Chamber:** the portion of the firearm that holds the cartridge.
- **Magazine:** a device that stores cartridges for loading into a chamber.
- **Action:** a mechanism of the firearm that loads, fires, and ejects a cartridge. There are five basic types of firearm actions:
  - **Lever Action:** a type of action in which the shooter manually cycles a lever to load a new cartridge and eject the used cartridge casing.
  - **Break Action:** a type of firearm action in which the barrel(s) are hinged and can be broken open to expose the breech.
  - **Pump Action:** a type of manual firearm action that requires the shooter to slide a handguard rearward to eject a used cartridge and prepare the hammer. Afterward, the shooter pushes the sliding handguard forward to load a new cartridge into the chamber. A pump action is traditionally used for shotguns.
  - **Bolt Action:** a type of manual firearm action that is traditionally used for rifles. For a bolt action rifle, the shooter manually unlocks the bolt from the frame or receiver, ejects the spent cartridge, and pushes the bolt to a forward position, which pushes a new cartridge into the barrel chamber and closes the bolt.
  - **Auto-Loading:** an action for fully- and semi-automatic firearms that uses gas, spring, or inertial energy to cycle the bolt and automatically eject a spent cartridge and load a fresh round, thus not requiring manual operation between rounds.
- **Stock:** the part of a firearm that holds the barrel and action. The stock, which is also known as the buttstock and shoulder stock, is designed to be held against the shooter's shoulder, providing additional stability and support when firing.
- **Muzzle:** the end of a barrel that ejects the bullet.
- **Trigger:** the part of the firearm that is manually moved to cause the firearm to discharge a bullet(s) or other projectile.
- **Slide:** the part of a firearm that moves back and forth (slides) following the explosion of a combusting propellant to empty the chamber. Upon expelling the projectile, the slide cocks the hammer to prepare for the next shot and pushes a new cartridge from the magazine into the chamber. Most fully- and semi-automatic pistols include a slide.

## What are the types of firearms?

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) identifies four basic types of firearms:<sup>6</sup>

1. **Pistol.** A firearm designed to be held in one hand. It has a short stock and a single integral chamber within its barrel.
2. **Revolver.** A firearm designed to be held in one hand. It has a short stock and multiple chambers within a rotating cylinder that is separately aligned with a single barrel.

<sup>6</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, *Properly Identify a Firearm for the Purpose of Tracing*, March 17, 2023, <https://www.atf.gov/firearms/properly-identify-firearm-purpose-tracing>. As noted previously, the GCA definition of “firearm” encompasses additional weapons not traditionally thought of as firearms.

3. **Rifle.** A firearm designed to be fired from the shoulder. It can have various types of actions and stocks.
4. **Shotgun.** A firearm designed to be fired from the shoulder. Shotguns are predominantly smooth bored and can have various types of stocks, actions, and barrel types. They can fire a single projectile (slug) or multiple projectiles (shots) and generally do not have as long of a range as a rifle.

## What is the difference between semi-automatic and fully automatic firearms?

### What are semi-automatic firearms?

Semi-automatic firearms, unlike manually operated firearms, do not require loading and firing each cartridge manually. Instead, using a semi-automatic action, the user fires one bullet per trigger pull and the weapon automatically reloads the chamber.

### What are fully automatic firearms?

A fully automatic firearm is designed to shoot more than one shot by a single function of the trigger. There are five common types of fully automatic firearms:

1. **Machine gun:** a fully automatic firearm that fires continuously with one pull of the trigger. Specifically, the National Firearms Act (NFA; 26 U.S.C. §5845(b)) defines a “machinegun” as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manual reloading, by a single function of the trigger.”<sup>7</sup> Machine guns are often attached to a mount (e.g., mounted to a military vehicle) or supported in other similar fashions. In addition, many machine guns use an ammunition belt to package and feed cartridges.<sup>8</sup>
2. **Submachine gun:** a small, portable, fully automatic firearm that expels pistol cartridges. Because of their smaller size, submachine guns do not need a mount and are typically shot from the shooter’s hip or shoulder.<sup>9</sup>
3. **Automatic shotgun:** a shotgun capable of firing shells automatically. These weapons are primarily employed by military personnel.
4. **Automatic rifle:** a rifle capable of continuous fire with one pull of the trigger. Many automatic rifles are designed to switch between semi-automatic, fully automatic, and/or a burst mode (i.e., where the shooter fires a predetermined

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<sup>7</sup> 26 U.S.C. §5845(b).

<sup>8</sup> Will Elsbury, “The Machine Gun: Its History, Development and Use: A Resource Guide,” *Library of Congress Research Guides*, September 2, 2022.

<sup>9</sup> The personal defense weapon (PDW) is another type of fully automatic weapon that is similar in most respects to a submachine gun, but firing an (often proprietary) round, giving a PDW better range, accuracy, and armor-penetrating capability than submachine guns, which fire pistol-caliber cartridges. PDWs were developed in response to the National Atlantic Treaty Organization’s (NATO’s) request to replace 9×19mm Parabellum submachine gun with a more powerful small arm capable of being used by military personnel for self-defense. Rather than expelling pistol cartridges, PDWs fire rifle cartridges, providing the shooter with a more powerful and long-range firing capacity. See Bonn International Centre for Conflict Studies, *Small Arms and Light Weapons (SAWL) Guide, Fact Sheet*, <https://salw-guide.bicc.de/pdf/weapons/044/fn-p90.std.en.pdf>.

- number of rounds with a single pull of the trigger). An automatic rifle is a standard service rifle in most militaries.<sup>10</sup>
5. **Machine pistol:** a pistol-style firearm capable of fully automatic or burst fire modes. Such weapons fire pistol cartridges and may be equipped with a shoulder stock to improve the shooter's firing accuracy.

## What are assault weapons?

There is no standardized definition of *assault weapon* and use of the term varies among policymakers. A CRS analysis of legislation proposed since the 101<sup>st</sup> Congress found more than 100 different bills that would have banned the transfer, purchase, importation, and assembly of assault weapons or parts that could convert a firearm into an assault weapon.<sup>11</sup>

The general definitional approaches employed in legislative proposals seeking to identify assault weapons include the following:

- **Naming Specific Firearms.** Specific firearm makes and models are named in the legislative proposals. Additionally, proposals may note that copies or duplicates of such firearms in any caliber that are perceived to be civilian versions of weapons designed and used for the military (military-style weapons) are considered assault weapons.<sup>12</sup> For example, some legislators have classified AKS firearms (Chinese semi-automatic rifles) as semi-automatic assault weapons due to the weapons' perceived similarities to the soviet-designed Avtomat Kalashnikova (AK-47).<sup>13</sup>
- **Identifying Visual Characteristics.** Some legislative proposals place emphasis on semi-automatic rifles, pistols, and shotguns with certain visual characteristics of military-style weapons, such as a semi-automatic rifle with a detachable magazine and a pistol grip, forward grip, folding stock, grenade launcher, barrel shroud, or threaded barrel.<sup>14</sup>
- **Inclusion of Parts and Accessories That Increase the Rate of Fire.** Some definitions focus at least in part on parts or accessories that can be attached to a firearm and accelerate a weapons' rate of fire *without* converting the weapon into a machine gun (which is fully automatic). For example, bump stocks drastically

<sup>10</sup> Will Elsbury, "From the Submachine Gun to the Assault Rifle: Their History, Development and Use: A Resource Guide," *Library of Congress Research Guides*, February 3, 2023.

<sup>11</sup> CRS conducted the assault weapon legislation analysis using Congress.gov. Specifically, CRS analysts searched Congress.gov's legislation search feature to find legislation titles, text, and summaries that included "assault weapons"~2 AND ban OR "assault weapons"~2 AND prohibit. The tilde symbol (~) was used to identify similar words to the one entered. Adding a number next to the "~" signifies that the search engine should also look for results that are x units away from the specific keyword or keyphrase that the individual is searching for. This search retrieved 229 different pieces of legislation since the 101<sup>st</sup> Congress. CRS then examined the legislation and excluded any that did not define *assault weapons* and that did not seek to ban anything related to the production, transferring, importation, or purchasing of assault weapons. See <https://www.congress.gov/u/bsCigUaad0yPqH2-hOKnZ> for the search results. In addition to proposing legislation that explicitly concerned assault weapons, Congress has also considered legislation that would have banned similar types of firearms, but the legislation did not specifically define assault weapons.

<sup>12</sup> See the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322; expired in 2004), the Assault Weapons Ban of 2023 (H.R. 698; 118<sup>th</sup> Congress), and Assault Weapons Excise Tax (H.R. 5135; 118<sup>th</sup> Congress).

<sup>13</sup> See the Assault Weapons Ban of 2023 (H.R. 698; 118<sup>th</sup> Congress), and David B. Kopel, "Rational Basis Analysis of Assault Weapon Prohibition," *Journal of Contemporary Law*, vol. 20, no. 2 (1994), p. 387.

<sup>14</sup> See the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322; expired in 2004), the Assault Weapons Ban of 2023 (H.R. 698; 118<sup>th</sup> Congress), and Assault Weapons Excise Tax (H.R. 5135; 118<sup>th</sup> Congress).

increase a firearm's rate of fire but are not considered to be a machine gun; therefore, bump stocks are included in some assault weapons ban legislation as a semiautomatic assault weapon.<sup>15</sup>

- **Defining Firearms by Their Frame or Receiver.** Some definitions included in legislation identify specific firearms' frames or receivers as assault weapons. These definitions include firearms with multiple frames or receivers as well as privately made firearms.<sup>16</sup>

## What devices can be added to a semi-automatic firearm to increase its capacity, capabilities, rate of fire, and ease of use?

### What are machine gun conversion devices (MCDs)?

MCDs are components that can convert a semi-automatic firearm into a machine gun. There are a number of MCDs (e.g., auto sears, autokey cards, swift links) designed to convert AR-type rifles into fully automatic weapons.<sup>17</sup> More recently, unlicensed individuals, who are not affiliated with the manufacturer of Glock handguns, designed MCDs (Glock switches) to convert Glock handguns into fully automatic weapons.<sup>18</sup> The NFA defines machine guns to include MCDs, making MCDs illegal to own or possess,<sup>19</sup> with limited exceptions.<sup>20</sup>

### What are stabilizing braces?

Stabilizing braces, colloquially referred to as *pistol braces*, are devices that can be attached to the breech of a firearm. The brace extends backwards, generally in alignment with the axis of the barrel(s), so the firearm can be secured to the shooter's forearm while it is held by its pistol grip or other short stock, making a heavier, larger short-stocked firearm easier to handle.

On January 13, 2023, the Attorney General signed ATF Final Rule 2021R-08F, "Factoring Criteria for Firearms with Attached 'Stabilizing Braces,'" amending ATF's regulations to clarify when a rifle is designed, made, and intended to be fired from the shoulder.<sup>21</sup> The final rule's amended definition of "rifle" clarifies that the phrase "designed, redesigned, made or remade, and intended to be fired from the shoulder" includes a weapon that is equipped with an accessory, component, or other rearward attachment (e.g., stabilizing brace) that provides surface area that

<sup>15</sup> See the Assault Weapons Ban of 2023 (H.R. 698; 118<sup>th</sup> Congress), and Assault Weapons Excise Tax (H.R. 5135; 118<sup>th</sup> Congress).

<sup>16</sup> See the Assault Weapons Ban of 2023 (H.R. 698; 118<sup>th</sup> Congress), and Assault Weapons Excise Tax (H.R. 5135; 118<sup>th</sup> Congress).

<sup>17</sup> AR-type rifles are a type of semi-automatic long guns (i.e., a firearm with a long barrel). AR means ArmaLite Rifle (and not *automatic rifle*, as is commonly believed), the company that designed the first AR-15 rifle. See Greg Myer, "A Brief History Of The AR-15," *NPR*, February 28, 2018, <https://www.npr.org/2018/02/28/588861820/a-brief-history-of-the-ar-15>.

<sup>18</sup> ATF, *Machinegun Conversion Devices*, fact sheet, Washington, DC, <https://www.justice.gov/usao-wdok/media/1366621/dl?inline>.

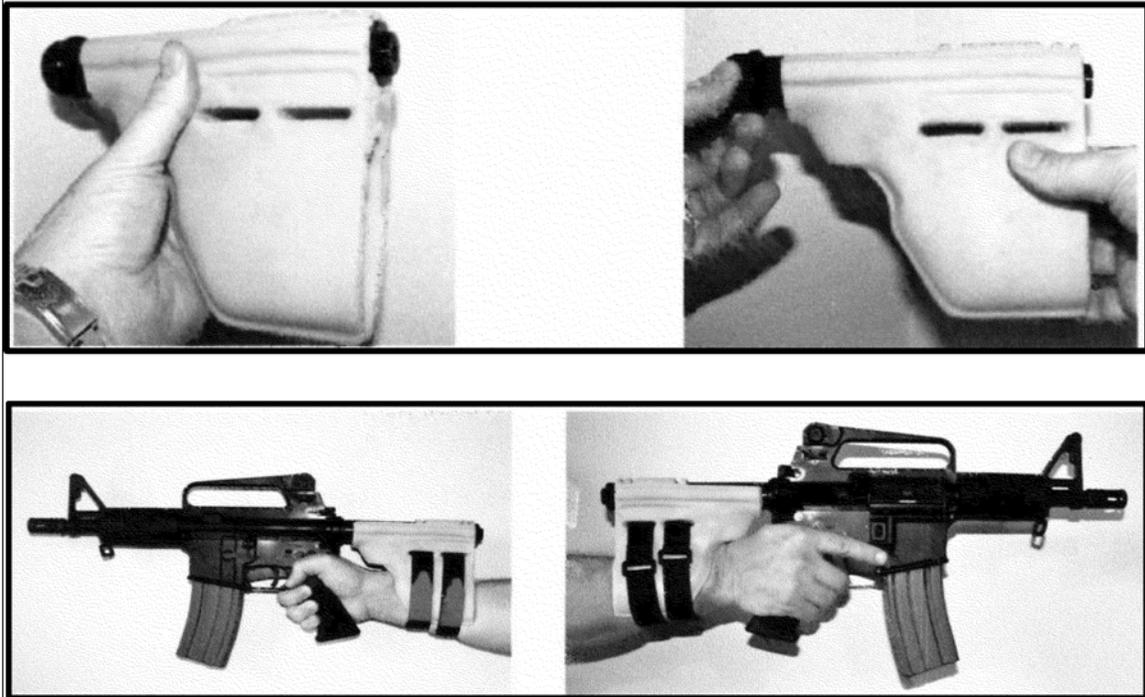
<sup>19</sup> 18 U.S.C. §922(o); 27 C.F.R. §479.105.

<sup>20</sup> 26 U.S.C. §5845(b); 18 U.S.C. §921(a)(24).

<sup>21</sup> ATF, "Factoring Criteria for Firearms with Attached 'Stabilizing Braces,'" 88 *Federal Register* 6478, January 13, 2023, <https://www.federalregister.gov/documents/2023/01/31/2023-01001/factoring-criteria-for-firearms-with-attached-stabilizing-braces>.

allows the weapon to be fired from the shoulder.<sup>22</sup> Stabilizing braces that are objectively designed to help individuals with disabilities and are not used to shoulder the weapon as a rifle (i.e., the brace is designed to conform to the arm and not as a buttstock), are not regulated by ATF.<sup>23</sup> As a result of this rule, individuals possessing a firearm with a stabilizing brace designed or intended to be fired from the shoulder must submit an ATF Form 1 (“Application to Make and Register a Firearm”) and be approved for a tax stamp.

**Figure 1. Example of a stabilizing brace that ATF found was not “designed or intended to fire a weapon from the shoulder.”**



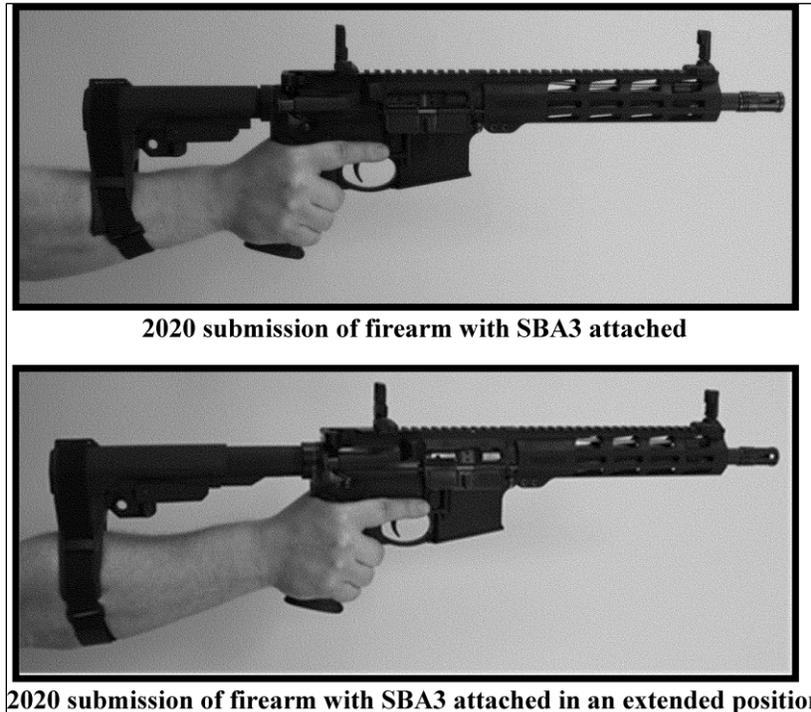
**2012 submission of original “stabilizing brace” attached to an AR-type pistol**

**Source:** ATF, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” 88 *Federal Register* 6478, January 13, 2023, p. 6484, <https://www.federalregister.gov/documents/2023/01/31/2023-01001/factoring-criteria-for-firearms-with-attached-stabilizing-braces>.

<sup>22</sup> See ATF, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” <https://www.atf.gov/rules-and-regulations/factoring-criteria-firearms-attached-stabilizing-braces> (accessed January 13, 2025).

<sup>23</sup> ATF, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” <https://www.atf.gov/rules-and-regulations/factoring-criteria-firearms-attached-stabilizing-braces> (accessed January 13, 2025).

**Figure 2. Example of stabilizing brace classified by ATF as “designed and intended to be used as a shouldering device.”**



**Source:** ATF, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” 88 *Federal Register* 6478, January 13, 2023, p. 6494, <https://www.federalregister.gov/documents/2023/01/31/2023-01001/factoring-criteria-for-firearms-with-attached-stabilizing-braces>.

On November 8, 2023, the U.S. District Court for the Northern District of Texas found that ATF Final Rule 2021R-08F likely violated the Administrative Procedure Act and issued an order “[s]tay[ing] the Rule in its entirety,” temporarily enjoining ATF from enforcing the final rule.<sup>24</sup> While other litigation exists concerning this final rule, *Britto v. ATF* is significant because it applies to all persons (rather than just the plaintiff) and, therefore, temporarily enjoins ATF from processing any Form 1 applications to make and register a stabilizing brace.

### What are large capacity ammunition feeding devices (LCAFDs)?

ATF defines an LCAFD as a

magazine, belt, drum, feed strip, or similar device for a firearm manufactured after September 13, 1994, that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition. The term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition, or a fixed device for a manually operated firearm, or a fixed device for a firearm listed in 18 U.S.C. 922.<sup>25</sup>

These devices increase a firearm user’s capacity to fire before needing to reload.

<sup>24</sup> *Britto v. ATF*, 23-CV-019-Z (N.D. Tex. November 8, 2023) (order granting preliminary injunction).

<sup>25</sup> 27 C.F.R. §478.11(B).

## What are bump stocks?

Bump stocks are not classified as MCDs under the NFA.<sup>26</sup> Composed of a sliding stock and trigger guard, the bump stock replaces the stock of a semi-automatic rifle. Upon pull of the trigger, if the shooter maintains consistent forward pressure by shouldering the stock of the device and placing the non-trigger hand on the grip of the rifle, the recoil from the shot causes the firearm to rapidly slide back and forth (bump) against the shooter’s trigger finger, allowing for the rapid firing of the semi-automatic firearm. As determined by the U.S. Supreme Court in *Garland v. Cargill*, 602 U.S. 406 (2024), bump stocks are not machine guns because the devices do not enable semi-automatic firearms to fire more than one shot “by a single function of the trigger.”

## Federal Firearms Laws

### Which federal laws regulate firearms?

Two primary federal statutes govern the transfer, sale, and possession of firearms: the NFA<sup>27</sup> and the GCA.<sup>28</sup>

The NFA imposes certain registration requirements and making and transfer taxes on specified weapons, including short-barreled shotguns and rifles, machine guns, silencers, destructive devices, and a catchall category covering “any other weapon,” which includes any weapons capable of firing by action of an explosive, being concealed on the person, and designed without a rifled bore (helical grooves machined into the internal surface of a barrel, which impart aerodynamic stability and accuracy). In addition, the NFA imposes a special occupational tax (SOT) on persons and entities engaged in the business of importing, manufacturing, or dealing in NFA firearms.

The GCA is a complex statutory regime that has been amended regularly in the decades since its inception. The GCA, among other things, imposes extra licensing requirements on the firearms industry compared to the pre-existing statute,<sup>29</sup> establishes additional categories of firearms offenses, prohibits the sale of firearms and ammunition to certain categories of persons ineligible to possess a firearm, and establishes federal jurisdiction over “destructive devices, including bombs, mines, grenades, and other similar devices.”<sup>30</sup>

### Which weapons are regulated under the NFA?

The following weapons are regulated under the NFA:<sup>31</sup>

- a shotgun having a barrel or barrels of less than 18 inches in length;

<sup>26</sup> ATF, *Machinegun Conversion Devices*, fact sheet, Washington, DC, <https://www.justice.gov/usao-wdok/media/1366621/dl?inline>.

<sup>27</sup> P.L. 73-474, 48 Stat. 1236 (1934).

<sup>28</sup> P.L. 90-618, 82 Stat. 1213 (1968).

<sup>29</sup> 8 U.S.C. §923. The GCA established a licensing schema to regulate the interstate movement of firearms. For example, it requires persons engaged in the business of manufacturing, importing, or dealing of firearms to obtain a federal firearms license. The license entitles the holder to ship, transport, and receive firearms in interstate or foreign commerce. The GCA further imposes record keeping requirements for federal firearms licensees (FFLs) and also mandates FFLs to comply with applicable state and local laws in transferring firearms.

<sup>30</sup> For more information about the implementing regulations of the GCA, see CRS In Focus IF11038, *U.S. Gun Policy: Framework and Major Issues*, by Michael A. Foster and Jordan B. Cohen.

<sup>31</sup> 26 U.S.C. §5845; 27 C.F.R. §479.11.

- a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length;
- a rifle having a barrel or barrels of less than 16 inches in length;
- a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;
- “any other weapon,” as defined in Subsection (e) of 26 U.S.C. §5845, which includes weapons capable of firing by action of an explosive, being concealed on the person, and designed without a rifled bore;
- a machine gun;
- any silencer (as defined in 18 U.S.C. §921); and
- a destructive device.<sup>32</sup>

### Who can own an NFA-regulated weapon?

An individual who is not prohibited by federal, state, or local law from receiving or possessing firearms may lawfully obtain an NFA firearm in one of two ways:<sup>33</sup>

- an approved transfer of a registered NFA firearm from its lawful owner, which requires ATF Form 4, “Application for Tax Paid Transfer and Registration of a Firearm”; or
- an approved making of an NFA firearm, which requires ATF Form 1, “Application to Make and Register a Firearm.”

### How are firearms classified under federal firearms laws?

ATF’s Firearms and Ammunition Technology Division (FATD) is the principal federal authority charged with classifying firearms and ammunition under federal law. FATD is also responsible for processing requests for importation and domestic manufacturing evaluations, and requests for marking variances.<sup>34</sup> Upon written request, FATD also issues determination (classification) letters regarding technical aspects of the NFA, GCA, and other applicable federal laws.

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<sup>32</sup> Per 26 U.S.C. §5845, a “destructive device” is

(1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10, United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

<sup>33</sup> 26 U.S.C. §§5812, 5822; 27 C.F.R. §479.62-66, 479.84-86.

<sup>34</sup> Marking variances are a form of an alternative method of identifying firearms. See ATF, *Request a marking variance for firearms*, January 16, 2020, <https://www.atf.gov/firearms/request-marking-variance-firearms>.

## Federal Firearm Licensees (FFLs)

### What is an FFL?

An FFL is an individual or entity licensed to engage in the business of manufacturing, importing, or dealing in firearms.<sup>35</sup>

### Who is eligible to obtain an FFL?

An individual is eligible for an FFL if he or she<sup>36</sup>

- is 21 years of age or over;
- is not prohibited from shipping, transporting, receiving, or possessing firearms or ammunition, nor in the case of a corporation, partnership, or association, is any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of a corporation, partnership, or association prohibited from shipping, transporting, receiving, or possessing firearms or ammunition;
- has not willfully violated the GCA or its regulations;
- has not willfully failed to disclose material information or has not made false statements concerning material facts in connection with their application;
- has premises for conducting business or collecting; and
- certifies that
  - the business to be conducted under the license is not prohibited by state or local law in the place where the licensed premises is located;
  - within 30 days after the application is approved, the business will comply with the requirements of state and local law applicable to the conduct of the business;
  - the business will not be conducted under the license until the requirements of state and local law applicable to the business have been met;
  - they have sent or delivered a form to the chief law enforcement officer of the jurisdiction where the premises is located notifying the officer that they intend to apply for a license; and
  - if they are to be a licensed dealer, that secure gun storage or safety devices<sup>37</sup> will be available at any place in which firearms are sold under the license to persons who are not licensees.

Additionally, the applicant must pay the relevant licensing fee and submit their photograph and fingerprints.<sup>38</sup>

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<sup>35</sup> For more information on what constitutes being “engaged in the business,” see CRS In Focus IF12197, *Firearms Dealers Engaged in the Business*, by Jordan B. Cohen.

<sup>36</sup> 18 U.S.C. §923(d)(1); 27 C.F.R. §478.47(b).

<sup>37</sup> See 18 U.S.C. §921(a)(34).

<sup>38</sup> ATF, “Instructions for Form 7/7CR - Application for Federal Firearms License,” <https://www.atf.gov/firearms/instructions-form-77cr-application-federal-firearms-license> (accessed January 27, 2025).

## What are the different types of FFLs?

ATF classifies FFLs into four broad categories.<sup>39</sup> An individual or entity can hold multiple FFLs.

1. **Dealer.** There are three types of firearms dealers, each of which requires a different license: dealer in firearms other than destructive devices, pawnbroker in firearms other than destructive devices,<sup>40</sup> and dealer in destructive devices.
2. **Manufacturer.** There are three types of firearms manufacturers, each of which requires a different license: manufacturer of ammunition for firearms other than ammunition for destructive devices or armor piercing ammunition; manufacturer of firearms other than destructive devices; and manufacturer of destructive devices, ammunition for destructive devices, or armor piercing ammunition.
3. **Importer.** There are two types of firearms importers, each of which requires a different license: importer of firearms or ammunition for firearms other than destructive devices or ammunition other than armor piercing ammunition, and importer of destructive devices and ammunition for destructive devices or armor piercing ammunition.
4. **Other.** There is a specific license for collectors of curios and relics (C&R) firearms. C&R firearms are firearms of special interest to collectors by reason of some quality other than their use in sporting activities or as offensive or defensive weapons.

## Can an FFL be revoked?

Yes. The GCA authorizes the U.S. Attorney General, after notice and opportunity for hearing, to revoke any FFL if the holder of such license willfully violated the GCA or any rule or regulation prescribed by the Attorney General thereunder. Federal courts have held that “willful violations” of the GCA’s regulations occur when the FFL commits the violation with an intentional disregard of a known legal duty or with plain indifference to their legal obligations. Absent extraordinary circumstance, ATF will issue a notice of license revocation whenever it determines an FFL has willfully committed one or more of the following violations:<sup>41</sup>

- transferring a firearm to a prohibited person;
- failing to conduct a required background check;
- falsifying records, such as a firearms transaction form;
- failing to respond to a trace request; or
- refusing to permit ATF to conduct an inspection.

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<sup>39</sup> ATF, “Types of Federal Firearms Licenses (FFLs),” <https://www.atf.gov/resource-center/types-federal-firearms-licenses-ffls> (accessed December 17, 2024).

<sup>40</sup> 27 C.F.R. Part 478 defines a “pawnbroker” as any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

<sup>41</sup> ATF, “Revocation of Firearms Licenses,” <https://www.atf.gov/firearms/revocation-firearms-licenses> (accessed December 17, 2024).

## How common is FFL revocation?

FFL revocation is relatively uncommon. For example, in FY2023 there were 132,383 active FFLs and 42,819 firearms licenses issued (including renewals);<sup>42</sup> during this period, ATF conducted 8,689 firearm compliance inspections, which resulted in 667 warning letters, 166 warning conferences, and 170 license revocations.<sup>43</sup>

## Background Checks

### What is the National Instant Criminal Background Check System (NICS)?

The Federal Bureau of Investigation's (FBI's) NICS is a national namecheck system for FFLs to verify whether a person can legally buy or own a firearm.<sup>44</sup> The GCA makes it illegal for nine classes of persons to ship, transport, possess, or receive firearms and ammunition. The classes of prohibited persons under the GCA who are required to be reported to NICS are

1. persons convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
2. fugitives from justice;
3. unlawful users or addicts of any controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. §802);
4. persons "adjudicated as a mental defective" or committed to mental institutions;
5. unauthorized immigrants and nonimmigrant visitors (with certain exceptions in the latter case);<sup>45</sup>
6. persons dishonorably discharged from the U.S. Armed Forces;
7. persons who have renounced their U.S. citizenship;
8. persons under court-ordered restraints related to harassing, stalking, or threatening intimate partners or children of such intimate partners; and
9. persons convicted of misdemeanor crimes of domestic violence.<sup>46</sup>

<sup>42</sup> ATF, "Fact Sheet - Facts and Figures for Fiscal Year 2023," July 2024, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2023>.

<sup>43</sup> ATF, "Fact Sheet - Facts and Figures for Fiscal Year 2023," July 2024, <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-facts-and-figures-fiscal-year-2023>.

<sup>44</sup> FBI, "About NICS," <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/nics/about-nics>, (accessed December 17, 2024).

<sup>45</sup> Until 2011, ATF interpreted this provision to apply to any noncitizen whose immigration status was "nonimmigrant alien," regardless of whether the alien had been required to obtain a visa prior to arrival at a port of entry. In 2011, ATF was informed by the U.S. Department of Justice's (DOJ's) Office of Legal Counsel (OLC) that the ATF interpretation was too broad and that the prohibition "applies only to nonimmigrant aliens who must have visas to be admitted, not to all aliens with nonimmigrant status" (DOJ, OLC, *Firearms Disabilities of Nonimmigrant Aliens Under the Gun Control Act*, 35 Op. O.L.C. 171 [2011], October 28, 2011, <https://www.justice.gov/d9/opinions/attachments/2021/02/18/2011-10-28-firearms-nonimmig-aliens.pdf>). Under current ATF regulations at 27 C.F.R. Part 478, nonimmigrants who enter the country validly without visas (e.g., under the Visa Waiver Program) are eligible to purchase firearms and ammunition. However, those individuals must demonstrate that they are "present in a State with the intention of making a home in that State."

<sup>46</sup> 18 U.S.C. §922(g).

## Is an NICS background check required to purchase a firearm?

Section 102 of the Brady Handgun Violence Prevention Act of 1993 (P.L. 103-159) requires all FFLs to use NICS to conduct background checks on prospective buyers before completing a firearm transfer. Only FFLs are permitted to request a background check through NICS.<sup>47</sup>

## How does NICS work?

A new background check is initiated every time an FFL contacts NICS electronically or by phone.<sup>48</sup> In order to purchase a firearm, a prospective buyer must complete a Firearms Transaction Record (ATF Form 4473). Using the information provided on ATF Form 4473, NICS staff verify the prospective buyer's eligibility to purchase a firearm and typically issue a final "proceed" or "denied" response to the FFL. In some cases, NICS may issue a temporary "delayed" response if the initial NICS check reveals a record that requires more research to determine the prospective buyer's eligibility to possess a firearm. If the FFL has not received a final determination from NICS within three business of the "delayed" response, it is within the FFL's discretion whether or not to transfer the firearm (if state law otherwise permits the transfer).<sup>49</sup>

## What is the accuracy and frequency of NICS reporting?

*NICS reporting* refers to the process for federal, state, local, and tribal agencies to report persons ineligible to own a firearm to NICS. Two pieces of legislation were passed by Congress and enacted into law to improve the efficiency and frequency of NICS reporting following the 2007 shooting at Virginia Tech: the NICS Improvement Amendments Act of 2007 (NIAA: P.L. 110-180) and the Fix NICS Act of 2018 (Title VI, Division S of the Consolidated Appropriations Act, 2018 [P.L. 115-141]).

The NIAA was enacted to improve the information available to NICS about mental health adjudications, commitments, and other prohibiting background information.<sup>50</sup> Specifically, the NIAA authorizes the U.S. Attorney General to obtain electronic versions of information from federal agencies on persons disqualified from receiving firearms and requires federal agencies quarterly to provide such information to the Attorney General. It also requires these agencies to update, correct, modify, or remove records from their systems when they no longer apply and notify the Attorney General of such actions to keep NICS information up-to-date. Furthermore, states must certify to the U.S. Attorney General, once every two-year period, that at least 90% of all records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm have been submitted to NICS.<sup>51</sup>

<sup>47</sup> Some states require that sales from private individuals go through NICS. In such cases, the private seller can contract with an FFL to perform the NICS background check for the seller.

<sup>48</sup> FBI, "Firearms Checks (NICS)," <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/nics>, (accessed December 17, 2024).

<sup>49</sup> ATF, *A NICS DELAY*, October 29, 2004, p. 1, <https://www.atf.gov/file/61086/download>.

<sup>50</sup> The Virginia Tech school shooter was "cleared" by NICS to purchase firearms from an FFL because the shooter's prohibiting mental health adjudications were not made available to NICS. DOJ, Bureau of Justice Statistics, NICS Act Record Improvement Program (NARIP), March 3, 2021, <https://bjs.ojp.gov/programs/nics-improvement-amendments-act>.

<sup>51</sup> For examples of these certifications, see DOJ, *Fix NICS Act Semiannual Report - September 2022*, Washington, DC, September 2022, pp. 34-76, [https://www.justice.gov/d9/nics\\_semiannual\\_report\\_-\\_september\\_2022.pdf](https://www.justice.gov/d9/nics_semiannual_report_-_september_2022.pdf).

The Fix NICS Act of 2018 requires the U.S. Attorney General to establish a plan to ensure maximum coordination and automation of reporting to NICS and release a semiannual report on NICS reporting by each federal department or agency, and state and tribal governments that have records relevant to NICS submissions. Upon reporting to NICS, federal departments and agencies must certify to the Attorney General whether the department or agency is in compliance with the record submission requirements for any person demonstrating that the person falls within one of the categories described in Subsection (g) or (n) of 18 U.S.C. §922.

Additionally, the act requires each reporting agency to submit

- the agency’s total number of records demonstrating that a person falls within one of the categories described in Subsection (g) or (n) of 18 U.S.C. §922;
- the agency’s total number of records for each category of Subsection (g) or (n) of 18 U.S.C. §922 that have been provided to the Attorney General; and
- information on the agency’s efforts to ensure complete and accurate reporting of relevant records, including efforts to monitor compliance and correct any reporting failures or inaccuracies.

The act also requires federal agencies to establish and comply with their own implementation plan to maximize accurate submissions. Moreover, it requires the Attorney General to publish names of each federal department or agency and state and tribal government that failed to achieve compliance with an implementation plan along with certain additional information, including a description of why, and the types and amounts of records that have not been submitted.<sup>52</sup>

## What are red flag laws?

Extreme Risk Protection Order (ERPO) laws, colloquially referred to as *red flag laws*, authorize the courts to temporarily prevent a person, who poses a risk to themselves or others, from accessing firearms.<sup>53</sup> While the exact provisions of such laws vary between states, upon issuance of an ERPO the court clerk will typically report the ERPO to NICS and, therefore, prevent the individual from purchasing a firearm from an FFL while the ERPO is in effect. As of March 2024, 21 states and the District of Columbia have enacted ERPO laws.<sup>54</sup>

## Straw Purchases and Firearms Trafficking

### What is a straw purchase?

A straw purchase is the illegal purchase of a firearm by an individual, a *straw purchaser*, on behalf of another person.<sup>55</sup> Straw purchases enable prohibited persons—such as felons, domestic abusers, or individuals who are otherwise prohibited from owning a firearm under 18 U.S.C. §922—to bypass background checks and obtain weapons.

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<sup>52</sup> P.L. 115-141, Division S, Title VI, §602(1).

<sup>53</sup> DOJ, *Commentary for Extreme Risk Protection Order Model Legislation*, June 7, 2021, <https://www.justice.gov/doj/reducing-gun-violence/commentary-extreme-risk-protection-order-model-legislation>.

<sup>54</sup> Johns Hopkins, Bloomberg School of Public Health, National ERPO Resource Center, *State-by-State*, <https://erpo.org/state-by-state/> (accessed December 17, 2024).

<sup>55</sup> 18 U.S.C. §932; the Bipartisan Safer Communities Act (BSCA) created new criminal offenses for straw-purchasing a firearm on behalf of a prohibited person.

## What is firearms trafficking?

Firearms trafficking is the movement or diversion of one or more firearms into the illegal market for criminal purposes.<sup>56</sup> Pursuant to 18 U.S.C. §933(a), it is illegal to ship, transport, or transfer a firearm to another person if the transferor knows, or has reasonable cause to believe, that that transferee’s use, carrying, or possession of the firearm would constitute a felony. In addition, 18 U.S.C. §933(a) prohibits the receipt of such firearm if the transferee knows, or has reasonable cause to believe, that receiving it would constitute a felony. Furthermore, per 18 U.S.C. §933(a), any *attempt* to engage in behavior that would violate any of the aforementioned prohibited actions is also unlawful.

Firearms trafficking encompasses a diverse set of illegal activities that violate 18 U.S.C. §933(a). According to ATF’s 2025 *National Firearms Commerce and Tracking Assessment (NFCTA)*, from 2017-2021, the five most common firearms trafficking channels were (1) trafficking in firearms by an unlicensed dealer (private person), (2) trafficking in firearms by a straw purchaser or a straw purchasing ring, (3) trafficking in firearms stolen from an FFL, (4) trafficking in firearms stolen from private persons, and (5) trafficking in firearms illegally exported from the United States.<sup>57</sup> In 2024, the Biden Administration made several changes to firearms regulations for the purpose of reducing the flow of “illegally acquired firearms” and “hold[ing] accountable those who supply the firearms used in crime,”<sup>58</sup> including those that affect licensing and associated requirements to perform background checks and those that govern private gun sales both within and across U.S. borders.

## Firearms-Related Appropriation Restrictions

### Has Congress enacted any firearms-related appropriations restrictions?

ATF is subject to a number of appropriations restrictions that affect the nature and extent of certain activities when enforcing federal firearms laws. Congress has also enacted firearms appropriations restrictions affecting the Department of Veterans Affairs, FBI, and the Centers for Disease Control and Prevention (CDC). See **Table 1** for a breakdown of firearms-related appropriations restrictions.

<sup>56</sup> ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Firearms Trafficking Investigations - Volume Three*, April 4, 2024, p. 2, <https://www.atf.gov/firearms/docs/report/nfcta-volume-iii-part-i/download>.

<sup>57</sup> ATF, *National Firearms Commerce and Trafficking Assessment (NFCTA): Protecting America from Trafficked Firearms - Volume Four*, January 8, 2025, p. 2, <https://www.atf.gov/firearms/docs/report/nfcta-volume-iv-part-iv-%E2%80%93-firearm-trafficking-investigations/download>.

<sup>58</sup> The White House, “FACT SHEET: Biden-Harris Administration Announces New Action to Implement Bipartisan Safer Communities Act, Expanding Firearm Background Checks to Fight Gun Crime,” April 11, 2024, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/11/fact-sheet-biden-harris-administration-announces-new-action-to-implement-bipartisan-safer-communities-act-expanding-firearm-background-checks-to-fight-gun-crime/>. For more information on the potential impact of these rules, see CRS In Focus IF12679, *The Biden Administration’s New Restrictions on Firearms Sales*, by Jordan B. Cohen and Kristin Finklea.

**Table I. Enacted Firearms-Related Appropriation Restrictions, 1996-Present**

| Issue                            | Law   | Description  | Affected Agency | Effect  |
|----------------------------------|---|--|-----------------|---|
| Centralization of records        | Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, 123 Stat. 575)       | <i>“Provided further, That no funds appropriated herein shall be available for salaries and administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearm licensees.”</i>  | ATF             | This restriction prohibits ATF from maintaining a database of firearm purchasers.   |
| Relief from firearm disabilities | Commerce, Justice, Science, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, 123 Stat. 574)       | <i>“Provided further, That none of the funds appropriated herein shall be available to investigate or act upon application for relief from Federal Firearm disabilities under 18 U.S.C. 925(c): Provided further, That such funds shall be available to investigate and act upon applications filed by corporation for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code”</i> | ATF             | This restriction prohibits ATF from acting upon any applications for relief from federal firearms disabilities submitted by individuals. As a result, this restriction eliminates one avenue by which persons prohibited from possessing firearms under 18 U.S.C. §922(g) may regain the right to possess firearms. |
| Transferring functions of ATF    | Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2009 (P.L. 111-8, 123 Stat. 574) | <i>“Provided further. That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol Tobacco and Firearms to other agencies or Departments in fiscal year 2009.”</i>  | ATF             | This restriction prohibits ATF from transferring its functions to other agencies or departments.  |

| Issue  | Law  | Description   | Affected Agency | Effect   |
|--|--|---|-----------------|--|
| Electronic retrieval of firearms records by name | Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 1997 (P.L. 104-208, 110 Stat. 3009). This language has been in every CJS appropriations act thereafter. | <i>“Provided further, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.”</i>  | ATF             | When an FFL discontinues business, 18 U.S.C. §923(g)(4) requires the FFL to send their firearms transaction records to ATF’s National Tracing Center (NTC). This restriction prohibits ATF from making such records electronically searchable using the purchasers’ personal identifying information as the search criteria. Consequently, ATF performs firearms traces using the weapon serial numbers found on such records. |
| “Curios or relics” definition                    | Treasury, Postal Service, and General Government Appropriations Act, 1996 (P.L. 104-52, 109 Stat. 468). This language has been in every ATF appropriation thereafter.              | <i>“Provided further, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendment to 27 CFR 478.118 or to change the definition of ‘Curios or relics’ in 27 CFR 478.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994.”</i> | ATF             | This restriction prohibits ATF from modifying the definition of “curios or relics.”  |

|   |   |  |     |   |
|---|---|--|-----|---|
| Firearms trace data disclosure (Tiahrt Amendment) | Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2009 (P.L. 111-8, 123 Stat. 524, 575). | <p><i>“Provided further, That, beginning in fiscal year 2009 and thereafter, no funds appropriated under this or any other Act may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), except to: (1) a Federal, State, local, tribal, or foreign law enforcement agency, or a Federal, State, or local prosecutor, solely in connection with and for use in a criminal investigation or prosecution; or (2) a Federal agency for a national security or intelligence purpose; and all such data shall be immune from legal process, shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based on the data, in a civil action in any State (including the District of Columbia) or Federal court or in an administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of chapter 44 of such title, or a review of such an action or proceeding; except that</i></p> | ATF | <p>The Tiahrt Amendment restricts ATF’s disclosure of firearms trace data. Specifically, ATF may only disclose trace data to (1) law enforcement agencies and prosecutor offices for use in a criminal case and (2) federal agencies for national security or intelligence purposes. As a result of this restriction, firearms trace information is protected from Freedom of Information Act (FOIA) requests and discovery in civil cases.</p> |
|---|---|--|-----|---|

| Issue | Law | Description   | Affected Agency | Effect |
|-------|-----|---|-----------------|--------|
|       |     | <p>this proviso shall not be construed to prevent: (A) the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title); (B) the sharing or exchange of such information among and between Federal, State, local, or foreign law enforcement agencies, Federal, State, or local prosecutors, and Federal national security, intelligence, or counterterrorism officials; or (C) the publication of annual statistical reports on products regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives, including total production, importation, and exportation by each licensed importer (as so defined) and licensed manufacturer (as so defined), or statistical aggregate data regarding firearms traffickers and trafficking channels, or firearms misuse, felons, and trafficking investigations.”</p> |                 |        |

| Issue                             | Law   | Description   | Affected Agency | Effect   |
|-----------------------------------|---|---|-----------------|--|
| License renewal for inactive FFLs | Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2009 (P.L. 111-8, 123 Stat. 574). This language has been in every CJS appropriations act thereafter.     | “ <i>Provided further</i> , That no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 or title 18, United States Code, or renewal of such license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986.” | ATF             | Unless terminated sooner, an FFL is in effect for three years. This restriction prohibits ATF from denying an FFL application solely on the basis that an FFL was not “engaged in the business” of dealing firearms (i.e., zero acquisitions or dispositions) during the license period. |
| FFL physical inventories          | Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2004 (P.L. 108-199, 118 Stat. 3, 53). This language has been in every CJS appropriations act thereafter. | “ <i>Provided further</i> , that no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code.”   | ATF             | FFLs are legally required to maintain records of their acquisitions and dispositions of firearms. This restriction prohibits ATF from promulgating regulations that would require FFLs to conduct annual inventory inspections and record reconciliation.                                |

| Issue   | Law  | Description   | Affected Agency | Effect  |
|---|--|---|-----------------|---|
| Next-day destruction of NICS records                        | Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act, 2009 (P.L. 111-8, Division B., §511). This language has been in every CJS appropriations act thereafter | “None of the funds appropriated pursuant to this Act or any other provision of law may be used for – (2) any system to implement 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.” | ATF, FBI        | FFLs are required by law to initiate a NICS check to verify a prospective transferees’ eligibility to purchase a firearm. After NICS verifies the eligibility of a transferee to purchase a firearm, this restriction requires NICS to destroy all records identifying the transferee within 24 hours after “proceed” status is issued. In some cases, NICS obtains post-proceed information indicating that a firearms transaction should have been denied. This restriction limits the FBI’s ability to initiate firearm-retrieval actions in such a circumstance. In addition, this restriction affects ATF FFL compliance inspections, as NICS records of approved firearm transfers will not be available for ATF Industry Operations Investigators (IOIs) to compare against FFL transaction records. |
| Federal funding for gun control research (Dickey Amendment) | Labor, Health and Human Services, Education, and Related Agencies Appropriations Acts, 2018 (P.L. 115-141). This language has been in every CDC appropriation thereafter.          | “None of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control.”  | CDC             | The CDC is permitted to conduct research about gun violence; however, this restriction prohibits the CDC from conducting research that advocates for gun control.   |

| Issue   | Law  | Description  | Affected Agency | Effect   |
|---|--|--|-----------------|--|
| Department of Veterans (VA) Affairs NICS reporting requirements (Kennedy Amendment) | Military Construction, Veterans Affairs, and Related Agencies Appropriations Acts, 2024 (P.L. 118-42). This language has been extended in the two continuing resolutions enacted in 2024 (P.L. 118-83 and P.L. 118-158). | “None of the funds made available by this Act may be used by the Secretary of Veterans Affairs under section 5502 of title 38, United States Code, in any case arising out of the administration by the Secretary of laws and benefits under such title, to report a person who is deemed mentally incapacitated, mentally incompetent, or to be experiencing an extended loss of consciousness as a person who has been adjudicated as a mental defective under subsection (d)(4) or (g)(4) of section 922 of title 18, United States Code, without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others.” | VA              | 18 U.S.C. §922(g) prohibits persons “adjudicated as a mental defective” from transporting, possessing or receiving firearms and ammunition. The VA and ATF interpret this to mean that any beneficiaries of veterans disability benefits who are determined by the agency to be mentally incompetent because they lack the mental capacity to manage their own affairs, and thus have their benefits paid to a third-party fiduciary, are reported to NICS in the prohibited class of persons “adjudicated as a mental defective.” This appropriation rider prohibits the VA from reporting veterans to NICS who receive disability benefits through a fiduciary because they are considered “mentally defective” unless a relevant judicial authority rules that the beneficiary is a danger to himself or herself or others. |

**Sources:** CRS analysis of Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Acts; Labor, Health and Human Services, Education, and Related Agencies Appropriations Acts; Military Construction, Veterans Affairs, and Related Agencies Appropriations Acts; and the Treasury, Postal Service, and General Government Appropriations Acts.

**Notes:** Except for a brief period during Prohibition era, ATF and its predecessor bureaus functioned within the U.S. Department of the Treasury for more than 200 years. In January 2003, ATF’s functions and responsibilities were transferred to the Department of Justice. See ATF, “Transfer of ATF to U.S. Department of Justice,” September 28, 2016, <https://www.atf.gov/our-history/timeline/transfer-atf-us-department-justice>.

## **Author Information**

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